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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Comments by the Government of Mexico on the concluding observations of the Human Rights Committee

The Government of Mexico, having read the comments of the Human Rights Committee contained in document CCPR/C/79/Add.109 of 27 July 1999, wishes to express its satisfaction at the positive remarks made concerning its implementation of the Covenant and attaches herewith information designed to correct the statements of the Committee which are inaccurate.

1. In paragraph 6, the Committee states: "not all forms of torture are necessarily covered by law in all Mexican States".

We would like to note that this statement is not correct, as all forms of torture are covered by law in all Mexican States.

All the forms of torture specified in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are punished under both federal law and the legislation of the 31 States of the Republic. All States have an Act for the Prevention and Punishment of Torture.

The definition of torture set forth in the Federal Act for the Prevention and Punishment of Torture, contained in articles 3, 5 and 6, is consistent with the definition contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(a) "There is no independent body to investigate the substantial number of complaints regarding acts of torture and cruel, inhuman or degrading treatment."

On the contrary, an independent body responsible for investigating complaints does exist. The Committee itself, in paragraph 3, notes with satisfaction the legal reforms which strengthened the independence of the National Human Rights Commission. The constitutional reforms were adopted by Congress, and, after being ratified by all the State Congresses, are already in force.

In addition, the Public Prosecutor is responsible for conducting an investigation and establishing the facts in the Case and the courts, which are independent from the executive branch, are responsible for determining guilt and ordering punishment.

The investigation and prosecution of offences is the exclusive responsibility of the Public Prosecutor's Office; torture is regarded in Mexico as a serious offence and the Public Prosecutor's Office is responsible for investigating possible acts of torture and prosecuting the alleged perpetrators. The judiciary determines the applicable penalty, based on the legislation in force.

The Public Prosecutor's Office enjoys complete autonomy and the authority needed to carry out its investigative work.

(b) "The acts of torture, enforced disappearances and extrajudicial executions which have taken place have not been investigated; (...) the persons responsible for those acts have not been brought to justice."

All complaints of acts of torture, enforced disappearances and extrajudicial executions lodged with the Public Prosecutor's Office have also been investigated for the purpose of clarifying the facts and, if necessary, prosecuting those responsible.

The Government of Mexico has provided the Committee with clear and comprehensive statistical information about the investigations conducted on all the complaints submitted, the number of persons involved and any penalties imposed.

(c) "The victims or their families have not received compensation."

Wherever appropriate, the victims or their families have received compensation.

The Government of Mexico has provided the Committee with detailed information on the cases in which the victims and their relatives received compensation.

Accordingly, as far as paragraph 6 is concerned, the Government of Mexico has already taken all the measures needed for compliance with paragraphs 6 and 7 of the Covenant.

2. In paragraph 7, the Committee expresses the following concerns:

(a) "The possibility exists of placing on an accused person the burden of proof that a confession has been obtained by coercion".

This statement is erroneous; when complaints of torture are submitted it is not for the victim to provide proof but for the Public Prosecutor's Office to conduct an investigation.

The Public Prosecutor's Office is responsible for conducting an investigation and, if necessary, establishing the facts in the case. The victims of torture are not required to provide proof; it is sufficient for them to lodge the complaint in order for the investigation to begin.

(b) "Confessions obtained by coercion may be used as evidence against an accused person."

This statement is incorrect. In Mexico a confession obtained by coercion cannot be used as evidence against the accused. The law stipulates that no confession obtained by coercion is admissible as evidence.

To ensure that evidence is admissible, criminal legislation in Mexico sets forth a series of requirements without which it loses all validity: in particular, it must be made to a judicial authority and in the presence of a person whom the accused trusts, which guarantees that confessions cannot be obtained by coercion. In addition, for several years, confession, in criminal matters, has been regarded as only one type of evidence, which has to be corroborated by other types.

It is not sufficient in and of itself to convict any individual.

The Federal Code of Criminal Procedure contains explicit rules governing confession and its probative value at the pre-trial and trial phases.

Article 279 of the Code sets forth an obligation for the judicial authority to assess the value of the confession, based on the requirements laid down in article 287. Article 287 states that a confession made to the Public Prosecutor or the Court must meet the following requirements:

I. That it be made by a person not under 18 years of age, against himself, in full awareness, subject neither to coercion nor to physical or moral violence;

II. That it be made to the Public Prosecutor's Office or the court trying the case, in the presence of the accused person's defence counsel or a person whom the accused trusts, and that the accused be duly informed of the procedure and process;

III. That it concern an act of his own commission; and

IV. That there are no circumstances which, in the opinion of the judge or court, make it implausible.

The article states, "No one may be held for trial when the sole incriminating evidence is his confession. The judicial police is empowered to submit reports but not to obtain confessions, which, were it to do so, would lack any probative value."

Any steps taken by officers of the federal or local judicial police have the value only of testimony, which must be supplemented by other evidence in order to have probative value.

The Code of Criminal Procedure for the Federal District and the State Codes of Criminal procedure have similar provisions:

"Article 249. A confession made to the Public Prosecutor's Office or the Court must meet the following requirements:

That it be made by a person not under 18 years of age, against himself, in full awareness, subject neither to coercion nor to physical or moral violence;

That it concern an act of his own commission;

That it be made to the Public Prosecutor's Office or the court trying the case, in the presence of the accused person's defence counsel or person in the accused's confidence, and that the accused be duly informed of the procedure and process; and

That there are no circumstances or evidence which, in the opinion of the judge or court, make it implausible."

These articles are strengthened by a large body of case law of the Supreme Court of Justice of the Nation, to the effect that confessions obtained by physical or psychological coercion, including those obtained during detention exceeding the time-limits set forth by the Constitution and the laws, shall lack any probative value (the relevant decisions are attached).

Accordingly, the recommendation contained in paragraph 7 has been fully met.

3. In paragraph 8, the Committee states, "order should be maintained within the country through the civil security forces".

It is certainly true that order should be maintained within a country through the civil security forces. Precisely to improve security of persons, given the lack of trained staff, some former members of the armed forces have been used in maintaining order. A police academy has also been established. The Attorney-General's Office has replaced a considerable number of its staff. It is true that, in exceptional cases, the armed forces are used to protect the citizenry and temporarily assist the civil authorities, in the framework of the legislation in force.

The armed forces are responsible for implementing the Federal Firearms and Explosives Act, and, in some regions, cooperate in action to combat the drug traffic.

4. In paragraph 9, the Committee states that it is "concerned by the fact that no institutionalized procedures exist for the investigation of allegations of violations of human rights presumed to have been committed by members of the armed forces and by the security forces, and that as a consequence those allegations are frequently not investigated."

This interpretation is incorrect:

(a) Institutionalized bodies and procedures do exist for the administration of justice in military matters. Allegations of violations are investigated and, where necessary, punished. The penalties laid down in the Code of Military Justice are in many cases more severe than those provided for by the ordinary legislation.

(b) The bodies in charge of the administration of justice continually prosecute and punish, according to each case and the competent body, complaints of human rights violations committed by the security forces.

The National Human Rights Commission is also empowered to receive and investigate complaints in this area;

In short, the Government of Mexico has established appropriate procedures for investigating alleged violations and prosecuting those responsible.

5. In paragraph 10, the Committee expresses several concerns regarding the implementation of the Act Establishing Coordination between National Public Security Systems and the Act Against Organized Crime, as well as the concept of flagrancy.

On these points, the Committee is informed that:

(a) The concept of flagrancy has been limited and circumscribed to very specific cases.[1]

It is prohibited to hold detained persons incommunicado. All detainees have the right to have and be represented by counsel from the time they are detained. The amendments to the legislation have been aimed at increasing individual security.

Accordingly, these provisions are not inconsistent with article 9 of the Covenant.

6. In paragraph 11 the Committee states, "The criminal procedure established and applied in Mexico constitutes an obstacle to full compliance with article 14 of the Covenant, which requires a trial to take place before a judge, in the presence of the accused person and at a public hearing."

This statement is incorrect: the Mexican Constitution and the laws deriving from it guarantee every accused person the right to be informed of the nature and cause of the charge against him, to be heard in public by a competent and independent tribunal and to be confronted with those accusing him.

One of the rights guaranteed to every accused person by the Constitution and laws is the right to be present at all stages of the preliminary investigation and trial, in order to provide evidence he deems appropriate in his defence.

The Codes of Criminal Procedures guarantee that hearings shall be public, that an accused person shall be allowed to defend himself or be defended by counsel, of which purpose both shall have the full right to be heard (Federal Code of Criminal Procedure, arts. 86 and 90).

The Constitution and laws of Mexico are fully consistent with the principles set forth in article 14 of the Covenant. Accused persons are therefore provided with all guarantees of due process.

7. In paragraph 12, the Committee states:

> "Although a state of emergency has not been proclaimed in areas in conflict, the population has been subjected to derogations from its rights corresponding to a state of emergency, such as control points impeding freedom of movement."

This statement is incorrect; nowhere in the national territory have there been any derogations from the rights established in the Covenant.

Control points do not impede freedom of movement. They are merely checkpoints, established in the context of legislation to combat the drug traffic, carrying and use of firearms and the transborder traffic in persons.

8. In paragraph 13, the Committee expresses concern at the alleged "obstacles to the free movement of foreigners, especially the members of non-governmental organizations investigating human rights violations on Mexican territory".

This statement is incorrect. Like most countries in the world, Mexico has migration regulations governing foreigners' entry into and stay in the national territory. As consistent with the Covenant, foreigners' activities in a few areas are regulated. Foreigners cannot take part in political activities.

The migration laws covering human rights observers are compatible with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and *Protect Universally Recognized Human Rights and Fundamental Freedoms.*

Human rights observers receive special visas authorizing them to perform their work. Their activities must be consistent with the rules specified by the migration authorities.

9. In paragraph 14, the Committee states that it "deplores the serious violations of freedom of expression represented by the frequent murders of journalists" and by the "acts of intimidation making it difficult for representatives of the press to exercise their profession freely in Mexico or preventing them from doing so".

This statement is incorrect: There is complete freedom of expression in Mexico.

A few journalists have been attacked by criminals linked in some cases to the drug traffic. The Government of Mexico not only deplores these cases but investigates each one, and in several cases those responsible have already been tried.

Furthermore, the Government has established programmes to guarantee the protection of journalists.

The Committee "also deplores the existence of the offence of 'defamation of the State'".

This completely groundless statement is surprising, as there is no offence of "defamation of the State", or any similar offence, in Mexico.

Accordingly, this recommendation is inappropriate.

10. In paragraph 15, the Committee "deplores the situation of street children, which is constantly worsening".

The Government of Mexico has adopted measures and programmes to protect street children and combat child prostitution and child pornography.

This statement is inconsistent with the Committee's own remarks in paragraph 3 of the document under review, in which it takes note with satisfaction of the programmes undertaken by the Government of Mexico to improve the situation of women, children and the family.

Similarly, harsher laws and penalties have also been established for offenders, a Plan of Action to Prevent, Address and Eradicate Commercial Sexual Exploitation of Children has been launched and a National Inter-Institutional Commission to Eradicate the Sexual Exploitation of Children has been set up.

In the area of prevention, orientation and support modules have been created to dispense educational programmes aimed at reducing and avoiding drug dependency, sexually transmitted diseases, the sex trade and sexual abuse of children, and to stimulate the interest of children in particularly difficult conditions, such as street children, in cultural, recreational and sports activities.

Intensive programmes have been conducted to disseminate the rights of the child among children in the Child Development Centres (CADI); in coordination with the National System for the Integral Development of the Family (DIF), 25 workshops were conducted in the Federal District, in which 861 pre-school children took part.

Awareness-raising courses have also been held on the treatment and rights of street children, for police officers in the capital. Some of them have been organized with Government and NGO cooperation.

Support has been provided for the establishment of specialized agencies to deal with children's affairs, 20 of which are now in existence in various States of the Republic.

11. In paragraph 16, the Committee states that it is "concerned at the level of violence against women" and by "the many reported cases of abduction and murder which have not led to the arrest or trial of the perpetrators".

In this connection, the Committee is informed that action to combat violence against women is a priority of the Government of Mexico. Violence against women is a practice which is on the decline, thanks to cooperation from women's groups throughout the country.

Among the activities conducted and measures taken are the following:

The Public Prosecutor's Office scheme of specialized agencies to deal with sexual offences. Four such specialized agencies to handle sexual offences were set up in 1989 in the Federal District, and the necessary regulations were issued to enable them to operate as an integral part of the public prosecution service. Three victim support centres were also established: the Support Therapy Centre (CTA), the Domestic Violence Care Centre (CAVI) and the Missing and Absent Persons Support Centre (CAPEA). Support was also offered to those States of the Republic which have shown an interest in initiating similar programmes.

CAVI has provided legal, psychological and medical assistance to slightly more than 90,000 people, most of them women.

Specialized agencies to deal with sexual offences have been set up and care programmes for victims initiated in 27 States of the Mexican Republic to date.

As part of the 1990 reform of the Criminal Code of the Federal District sexual harassment was characterized as an offence concerning not only the conduct of a landlord, employer or supervisor but the conduct of any person in a position of authority over women.

In 1994 the Specialized Care and Legal Aid Unit was established and the Comprehensive Care Programme for the Victims of Sexual Attacks began operating in the Federal District.

In March 1995, the Federal District Department of Public Prosecution (PGJDF) established a sub-department of human rights and community services and a State office to deal with the victims of crime, for the purpose of coordinating the activities of the specialized agencies dealing with victims.

In April 1996, an amendment was added to the Federal District Government Procurator's Office Organization Act giving the Public Prosecutor's Office the authority to deal with crime victims by providing legal, social and psychological support.

The Coordinating Office of PRONAM designed a project to raise the awareness of judges in all federal entities of the importance of implementing the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Para", ratified by Mexico in 1998). To this end a handbook was prepared for use by the Public Prosecutor's Office and judiciary staff concerning the contents of the Convention and methods for implementing it. The handbook was also among the materials used for a series of regional workshops conducted in 1998 for Public Prosecutor's Office and judiciary officials, in particular those attached to the specialized agencies dealing with sexual offences, and the staff of the Support Therapy Centre for the victims of violence, the local human rights commissions, NGOs and representatives of the academic and civic sectors, among others.

Some important legislative changes have occurred in the area of action to combat domestic violence; worthy of mention is the Domestic Violence Prevention and Assistance Act, adopted by the Assembly of Representatives in plenary on 26 April 1996 and published in the Gaceta Oficial of the Federal District on 8 July 1996, which was the first specific instrument on the subject. The Act provides the victims of domestic violence with administrative options for achieving reconciliation or for protecting their physical integrity through a system of measures and sanctions which serves as a first phase or level of treatment, with legislative and institutional support, designed to avoid a deterioration in family relations.

Amendments have also been made to the Civil Code for the Federal District in Ordinary Matters and for the Republic as a Whole in Federal Matters, Code of Civil Procedure for the Federal District, Criminal Code for the Federal District in Ordinary Matters and for the Republic as a Whole in Federal Matters and Code of Criminal Procedure for the Federal District, published in the Diario Oficial of the Federation on 30 December 1997, in a effort to combat domestic violence and its implications within the family.

These amendments are aimed at three basic objectives: to discourage and punish behaviours which lead to domestic violence; to establish protective measures for the victims of domestic violence; to raise the people's awareness of the problem and to encourage the authorities to design public policies to prevent, combat and eradicate such behaviours.

It should be noted that domestic violence is now a ground for divorce. The judges hearing these cases may order, as temporary measures, a prohibition against either of the spouses from going to a particular place and any other measures necessary for avoiding acts of domestic violence.

In the criminal sphere, the amended legislation provides for measures of compensation. The person responsible for criminal acts undermining freedom and normal psychosexual development and acts of domestic violence is responsible for restitution of the item obtained by means of the offence and, should this be impossible, payment of its cost and any psychological treatment the victim may require.

A proposal to add a Chapter VIII, entitled "Domestic Violence", to Book Two, Title Nineteen of the substantive criminal legislation, was designed to treat as a protected legal asset, the harmonious coexistence within the home of the family members and any persons having a similar relationship to them owing to their cohabitation within the same physical space. Anyone

committing the offence of domestic violence shall be liable to six months' to four years' imprisonment and loss of maintenance rights, and must also undergo specialized psychological treatment. This offence is prosecuted on complaint by the injured party, unless the victim is a minor or incapacitated.

To help the victim and bring an end to the climate of violence in the home, the law also authorizes the Public Prosecutor's Office to order precautionary or security measures for the alleged perpetrator; these consist of the prohibition against going to a specific place, security for good behaviour or any other measures it considers necessary to safeguard the physical or psychological integrity of the victim. It is for the administrative authority to ensure compliance with these measures. At a later stage, if the preliminary investigation leads to prosecution, the judge hearing the case, taking the interests of the parties into account, may confirm or alter these measures. Lastly he may order the penalty raised by one third when the offender is a relative of the victim.

Under the new legislation, victims may initially address themselves to the administrative authorities, pursuant to the Domestic Violence Prevention and Assistance Act. At a later stage, they may bring civil proceedings and, in extreme cases, lodge a criminal complaint.

An amendment was also made to article 265, consisting of the addition of an article 265 bis stating that rape can also occur between spouses or unmarried consorts and laying down a custodial sentence for this offence: from 8 to 14 years' imprisonment, as also set by the Criminal Code.

The States of Coahuila, Oaxaca and Querétaro also have laws aimed at preventing domestic violence and caring for its victims. Other States have prepared bills on this subject (Chihuahua, Guerrero, Campeche, Michoacán, Veracruz, Chiapas, Morelos, Nuevo León, Puebla and Quintana Roo) for submission to the State congresses. Similarly, on 3 December 1997 federal and local legislators from all political parties agreed to review and prepare bills characterizing domestic and sexual violence as offences in States where no such legislation exists and to adopt legislative measures to protect women's rights and to eliminate all forms of discrimination against women from State legislation.

The abductions and killings reported have been investigated and the perpetrators punished.

The Committee has already received detailed information on the results of the investigations, the arrests made and the penalties imposed on the perpetrators in the cases submitted for its consideration, which can be transmitted to it again if it so wishes.

The Government of Mexico has no information concerning "many allegations of torture of women in detention". In order to investigate and punish the perpetrators of any crime, the competent authorities need to have received a complaint, which has not been lodged. If the Committee is in possession of any specific information, the Government of Mexico would appreciate it furnishing such in order that the case may be investigated. If the Committee has no such information it should abstain from making this type of allegation.

12. In paragraph 17, the Committee expresses concern at information to the effect that "Mexican women seeking employment in foreign enterprises in the frontier areas of Mexico ('maquiladoras') are subjected to pregnancy tests and required to respond to intrusive personal questioning, that some women employees have been administered anti-pregnancy drugs and that those allegations have not been seriously investigated".

The Government of Mexico shares this concern, hence serious investigations have been conducted into any complaints received.

The investigations into these complaints and the steps taken to secure equal rights for women in the area of hiring have been serious and extensive; a programme has been established within the Ministry of Labour and Social Security to investigate and follow up such complaints and channel them to the competent authorities in order that such practices may be punished. Draft amendments to the labour legislation are also being studied aimed at expressly prohibiting the requirement to provide proof that one is not pregnant in order to be hired.

Accordingly, the Government has already taken steps to investigate and prevent violations.

13. In paragraph 18, the Committee states that "the State party should approve measures to ensure equality of opportunity for women, their full participation in public life in conditions of equality and the removal of all remaining discriminatory provisions in regard to marriage, divorce and remarriage".

The Government of Mexico has taken numerous legislative measures to guarantee equality of opportunity for women.

There are no provisions in Mexican legislation which discriminate against women, either in regard to marriage, divorce or remarriage.

Ongoing efforts have been made to review the legislation in order to detect and remedy any deficiencies in the legislation which might encourage discriminatory practices.

14. In paragraph 19, the Committee states, "article 27 of the Constitution seems to protect only certain categories of rights with regard to indigenous lands and still leaves the indigenous populations exposed to a wide range of human rights violations", that "The State party should take all necessary measures to safeguard for the indigenous communities respect for the rights and freedoms to which they are entitled individually and as a group; to eradicate the abuses to which they are subjected; and to respect their customs and culture and their traditional patterns of living, enabling them to enjoy the usufruct of their lands and natural resources" and that "appropriate measures should also be taken to increase their participation in the country's institutions and the exercise of the right to self-determination".

Article 27 of the Constitution refers only to property; the remaining human rights are protected by other articles of the Constitution, such as the chapter on individual guarantees, due process, etc.

Article 4 states, "The Mexican Nation has a multicultural composition originally founded in its indigenous peoples. The law shall protect and promote the development of its languages, cultures, usages, customs, resources and specific forms of social organization and shall guarantee its constituent peoples effective access to the jurisdiction of the State. In the trials and agrarian proceedings in which those peoples may be involved account shall be taken of their legal practices and customs, in the terms to be established by law."

The amendments to article 27 of the Political Constitution of the United Mexican States set forth rules governing collective property and expand the powers of the representative bodies. They also provide the possibility for communities to enter into civil and commercial contracts and found associations for the purpose of securing sustainable development. They establish new bodies for the administration of agrarian justice, the agrarian tribunals, which are independent bodies in their own right. The tribunals' proceedings (known as agrarian procedures) are designed to secure the recognition and certification of communal assets, through non-contentious or contentious jurisdiction.

The implementation of article 27 is governed by subsidiary laws, such as the Agrarian Act, the General Ecological Balance and Environmental Protection Act and the Forestry Act, in particular, which provide for collective rights and participation of the communities in the development of their natural resources. The Government also works together with the communities to ensure that Mexican legislation is effectively applied throughout the federal entities in order to help indigenous agrarian units develop fully, based on their rights as landowners.

Local courts have also been established which take usages and customs into account in resolving minor conflicts and which respect the traditions of the different ethnic groups.

The Committee has been informed of the measures taken to combat the abuses to which the indigenous populations are subjected. The Government continues to work towards this end and has taken measures to guarantee respect for the indigenous peoples' customs and culture, including the usufruct of their lands and natural resources.

The Government has taken measures to ensure active participation by indigenous peoples in national institutions. There are indigenous deputies and senators in the Congress of the Union.

15. In paragraph 20, the Committee notes "the law does not recognize the status of conscientious objectors to military service" and suggests that the State party should ensure that persons required to perform military service can invoke conscientious objection as grounds for exemption.

Military service is a civic obligation. It is determined by lot, and may be performed on a flexible basis, especially for students. There has not been a single case of conscientious objection.

16. In paragraph 21, the Committee recommends dissemination of the text of Mexico's fourth periodic report and the Committee's concluding observations.

These documents will be distributed in due time.

In accordance with article 40, paragraph 5 of the Covenant and with rule 71 (2) of the Committee's rules of procedure, the Government of Mexico requests that the comments contained in this document should be included in the Committee's report to the Economic and Social Council and the Third Committee.

Note

[1] The Federal Code of Criminal Procedure specifies in detail the conditions and requirements which must be met in such cases.

Article 193 of the Federal Code of Criminal Procedure states: "Flagrancy shall be considered to have occurred when:

I. The accused is caught in the act of committing the offence;

II. The accused is pursued immediately after committing the offence; or

III. The accused is identified as the perpetrator by the victim, an eyewitness or a person having participated in the commission of the act together with him, or he has in his possession the object, instrument or product of the offence, or there are signs or evidence which give reason to believe that he has participated in the offence; provided that the offence in question is a serious offence as characterized by the law, that less than 48 hours have elapsed since the commission of the offence, that the respective preliminary investigation has been initiated and that the prosecution of the offence has not been interrupted.

In such cases, the Public Prosecutor's Office shall order the accused detained if the requirements of applicability have been met and the offence carries a custodial sentence, or shall order the detainee released, when the offence does not carry a custodial or alternative sentence.

Any infringement of the conditions set forth in the preceding paragraph shall render the person who has ordered the improper detention criminally responsible and the person detained shall be immediately released.

Should detention be ordered, the Public Prosecutor's Office shall immediately begin a preliminary investigation if it has not already done so."

For all legal purposes, the offences set forth in the following articles of the Criminal Code for the Federal District in Ordinary Matters and for the Republic as a Whole in Federal Matters are characterized as serious offences owing to their considerable negative implications for fundamental values of society: culpable homicide, art. 60, para. 3; treason, arts. 123, 124, 125 and 126; espionage, arts. 127 and 128; terrorism, art. 139, para. 1; sabotage, art. 140, para. 1, art. 142, para. 2 and art. 145; piracy, arts. 146 and 147; genocide, art. 149 bis; escape from prison, arts. 150 and 152; attacks on traffic arteries, arts. 168 and 170; unlawful use of facilities

intended for air transit, art. 172 bis, para. 3; attacks against health, arts. 194, 195, para. 1, 195 bis, except in the cases specified in the first two horizontal lines of the tables in appendix I, 196 bis, 197, para. 1 and 198, first part of para. 3; corruption of minors, art. 201; traffic in persons, art. 205, para. 2; exploitation of the body of a minor for the sex trade, art. 208; counterfeiting and alteration of currency, arts. 234, 236 and 237; rape, arts. 265, 266 and 266 bis; attacks on highways or roads, art. 286, para. 2; homicide, arts. 302 in conjunction with arts. 307, 313, 315, 315 bis, 320 and 323; abduction, art. 366, with the exception of the antepenultimate paragraph; aggravated theft, art. 367, in conjunction with art. 370, paras. 2 and 3, when committed in the circumstances referred to in arts. 372, 381, sections VIII, IX and X and 381 bis; theft, art. 371, last para.; extortion, art. 390 and transactions using resources of unlawful origin, art. 400 bis; the offences specified in arts. 83, section III, 83 bis, with the exception of sabres, bayonets and lances and 84 of the Federal Firearms and Explosives Act; torture, arts. 3 and 5 of the Federal Act for the Prevention and Punishment of Torture; traffic in undocumented persons, art. 138 of the General Population Act and the offences specified in arts. 104, sections II and III, last paragraph and 105, section IV of the Federal Tax Code.

The right of the accused to confer with counsel and/or a person whom he trusts (naturally including relatives) is a constitutional guarantee which comes into effect from the time the accused is detained and continues throughout the preliminary investigation and trial. It is in fact one of the indispensable requirements for the accused's statement to have procedural validity (Constitution, art. 20).